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10/551,175	09/29/2005	Mitsuhiro Watanabe	00862.023664.	4248

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FITZPATRICK CELLA HARPER & SCINTO  
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NEW YORK, NY 10112

EXAMINER
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MURRAY, DANIEL C

ART UNIT	PAPER NUMBER
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2443

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06/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,175	<b>Applicant(s)</b> WATANABE ET AL.	
	<b>Examiner</b> DANIEL C. MURRAY	<b>Art Unit</b> 2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>22JUL2008, 31OCT2008, 21MAY2009</u> .                         | 6) <input type="checkbox"/> Other: _____                          |



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### **DETAILED ACTION**

1. This Action is in response to Applicant's amendment filed on 04MAR2009. **Claims 19-42** are now pending in the present application. **This Action is made FINAL.**

2. **Claims 1-18** have been canceled by Applicant.

### ***Information Disclosure Statement***

3. The information disclosure statements submitted on 22JUL2008, 31OCT2008, and 21MAY2009 have been considered by the Examiner and made of record in the application.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

### ***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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**Claims 19-40** rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. **Claims 20-24, 26-28, 30-35, and 37-39** have been rejected by virtue of their dependency on **claims 19, 25, 29, and 36** respectively.

**Claim 19** states: a wireless communication device comprising: **a determination unit** adapted to determine whether or not an instruction to start a process processing of setting a communication parameter is; **a detection unit** adapted to detect a signal transmitted from another wireless communication device, which might be communicated with, at which an instruction to start the processing of setting a communication parameter has been made; **a terminating unit** adapted to terminate the processing of setting the communication parameter as a failure if said detection unit detects a plurality of signals transmitted from a plurality of another wireless communication devices after device at which the instruction has been made within a constant time period after said determination unit determines the instruction is made.

**Claim 29** states: a wireless communication device comprising: **a first detection unit** adapted to detect a button operation by a user, said button operation being for designating start of a processing of setting a communication parameter; **a second detection unit** adapted to detect a destination device, which might be communicated with, at which a button operation being for designating start of the processing of setting the communication parameter has been made; and **a terminating unit** adapted to terminate the processing of setting the communication parameter as a failure if said second detection unit detects a plurality of destinations made within a constant time period elapsed from when said first detection unit detects the button operation.

Applicant attempts to claim non-statutory subject matter (i.e. software). Applicant fails to claim a proper computer readable medium and thus fails to fall within in a statutory category and is thus, per se, considered software.

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**Claims 25-28 and 36-40** are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of *In Re Bilski* 88 USPQ2d 1385. The claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method of controlling a wireless communication device including steps of detection, detection, and terminating is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. **Claims 19-21, 23-27, 29-32, 34-39, 41, and 42** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ozawa et al. (US patent # 6,115,137)** in view of **Fujinami (US Patent Publication # US 2003/0123840 A1)**.

a) Consider **claim 19**, Ozawa et al. clearly show and disclose, a wireless communication device comprising: a determination unit adapted to determine whether or not an instruction to start a process processing of setting a communication parameter is made (figure 2, figure 3, figure 5, figure 6, column 6 lines 19-32 lines 49-65); a detection unit adapted to detect a signal transmitted from another wireless communication device, which might be communicated with, at which an instruction to start the processing of setting a communication parameter has been made (figure 2, figure 3, figure, 5, figure 6, abstract, column 6 lines 19-32 lines 66-67, column 7 lines 1-9 lines 15-38 lines 39-46); and a terminating unit adapted to terminate the processing at the wireless communication device at which the instruction has been made within a constant time period after said determination unit determines the instruction is made (column 7 lines 10-14). However, Ozawa et al. does not specifically disclose a terminating unit adapted to terminate the processing of setting

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the communication parameter as a failure if said detection unit detects a plurality of signals transmitted from a plurality of another wireless communication device.

Fujinami shows and discloses a method for communication suitable for use in interconnecting a plurality of household communication apparatus, wherein Fujinami discloses a terminating unit adapted to terminate the processing of setting the communication parameter as a failure if said detection unit detects a plurality of signals transmitted from a plurality of another wireless communication device (paragraph [0089]).

One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Fujinami and Ozawa et al. since both concern configuring communications between two devices and as such, both are with in the same environment.

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate indicating a failure to set a communication parameter when a plurality of signals are detected from a plurality of devices, as taught by, Fujinami into the system of Ozawa et al. for the purpose of preventing multiple devices from being selected (Fujinami; paragraph [0089]), thereby preventing communication errors.

b) Consider **claim 20**, and **as applied to claim 19 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 19, further comprising a notify unit adapted to notify a user of the failure when said terminating unit terminates the processing of setting the communication parameter (Fujinami; paragraph [0089]).

c) Consider **claim 21**, and **as applied to claim 19 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 19, further comprising a transmitting unit adapted to transmit a search signal for searching another wireless communication device at which the instruction has been made if said determination unit

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determines the instruction is made (Ozawa; figure 5, column 6 lines 19-65), wherein said detection unit detects a response signal from the another wireless communication device responding to the search signal transmitted by said transmitting unit (Ozawa; figure 6, column 7 lines 15-38).

d) Consider **claim 23**, and **as applied to claim 19 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 19, wherein the wireless communication device is an image processing apparatus having an image capturing unit for capturing an image (Ozawa; abstract, column 1 lines 66-67, column 2 lines 1-9).

e) Consider **claim 24**, and **as applied to claim 19 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 19, wherein the wireless communication device is an image processing apparatus having an image outputting unit for outputting an image (Ozawa; abstract, column 2 lines 39-51).

f) Consider **claim 25**, Ozawa et al. clearly show and disclose, a method of controlling a wireless communication device, comprising: a determination step of determining whether or not an instruction to start a processing of setting a communication parameter is made (figure 2, figure 3, figure 5, figure 6, column 6 lines 19-32 lines 49-65); a detection step of detecting a signal transmitted from another wireless communication device, which might be communicated with, at which an instruction to start the processing of setting a communication parameter has been made (figure 2, figure 3, figure 5, figure 6, abstract, column 6 lines 19-32 lines 66-67, column 7 lines 1-9 lines 15-38 lines 39-46); and a terminating step of terminating the processing of setting the communication parameter within a constant time period after it is determined in said determination step that the instruction is made (column 7 lines 10-14). However, Ozawa et al. does not specifically a terminating step of terminating the processing of setting the communication parameter as a failure if a plurality of signals transmitted from a plurality of another wireless communication device.

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Fujinami shows and discloses a method for communication suitable for use in interconnecting a plurality of household communication apparatus, wherein a terminating step of terminating the processing of setting the communication parameter as a failure if a plurality of signals transmitted from a plurality of another wireless communication device (paragraph [0089]).

One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Fujinami and Ozawa et al. since both concern configuring communications between two devices and as such, both are with in the same environment.

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate indicating a failure to set a communication parameter when a plurality of signals are detected from a plurality of devices, as taught by, Fujinami into the system of Ozawa et al. for the purpose of preventing multiple devices from being selected (Fujinami; paragraph [0089]), thereby preventing communication errors.

g) Consider **claim 26**, and **as applied to claim 25 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the method according to claim 25, further comprising a notify step of notifying a user of the failure when the processing of setting the communication parameter is terminated in said terminating step (Fujinami; paragraph [0089]).

h) Consider **claim 27**, and **as applied to claim 25 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the method according to claim 25, further comprising a transmitting step of transmitting a search signal for searching another wireless communication device at which the instruction has been made if it is determined in said determination step that the instruction is made (Ozawa; figure 5, column 6 lines 19-65), wherein in said detection step, a response signal from the another wireless communication device responding to the search signal transmitted by said transmitting unit is detected (Ozawa; figure 6, column 7 lines 15-38).

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i) Consider **claim 29**, Ozawa et al. clearly show and disclose, a wireless communication device comprising: a first detection unit adapted to detect a button operation by a user, said button operation being for designating start of a processing of setting a communication parameter (figure 2, figure 3, figure 5, figure 6, column 5 lines 1-10, column 6 lines 19-32 lines 49-65); a second detection unit adapted to detect a destination device, which might be communicated with, at which a button operation being for designating start of the processing of setting the communication parameter has been made (figure 2, figure 3, figure 5, figure 6, column 6 lines 19-32 lines 66-67, column 7 lines 1-9 lines 39-46); a terminating unit adapted to terminate the processing within a constant time period elapsed from when said first detection unit detects the button operation (column 7 lines 10-14). However, Ozawa et al. does not specifically disclose a terminating unit adapted to terminate the processing of setting the communication parameter as a failure if said second detection unit detects a plurality of destinations.

Fujinami shows and discloses a method for communication suitable for use in interconnecting a plurality of household communication apparatus, wherein Fujinami discloses a terminating unit adapted to terminate the processing of setting the communication parameter as a failure if said second detection unit detects a plurality of destinations (paragraph [0089]).

One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Fujinami and Ozawa et al. since both concern configuring communications between two devices and as such, both are with in the same environment.

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate indicating a failure to set a communication parameter when a plurality of signals are detected from a plurality of devices, as taught by, Fujinami into the system of

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Ozawa et al. for the purpose of preventing multiple devices from being selected (Fujinami; paragraph [0089]), thereby preventing communication errors.

j) Consider **claim 30**, and **as applied to claim 29 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 29, further comprising a notify unit adapted to notify a user of the failure when said terminating unit terminates the processing of setting the communication parameter (Fujinami; paragraph [0089]).

k) Consider **claim 31**, and **as applied to claim 29 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 29, further comprising a transmitting unit adapted to transmit a search signal for searching a destination device if said first detection unit detects the button operation (Ozawa; figure 5, column 6 lines 19-65), wherein said second detection unit detects the destination device on the basis of a response signal from the destination device responding to the search signal transmitted by said transmitting unit (Ozawa; figure 6, column 7 lines 15-38).

l) Consider **claim 32**, and **as applied to claim 29 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 29, wherein said second detection unit detects the destination device on the basis of a signal transmitted from the destination device at which the button operation has been made (Ozawa; figure 5, figure 6, column 6 lines 19-32, column 7 lines 15-38).

m) Consider **claim 34**, and **as applied to claim 29 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 29, wherein the wireless communication device is an image processing apparatus that having an image capturing unit for capturing an image (Ozawa; abstract, column 1 lines 66-67, column 2 lines 1-9), and wherein said first detection unit detects operation of the button which is used for instructing to

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enter into a network (Ozawa; figure 2, figure 3, figure 5, figure 6, column 5 lines 1-10, column 6 lines 19-32 lines 49-65).

n) Consider **claim 35**, and **as applied to claim 29 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 29, wherein the wireless communication device is an image processing apparatus having an image output unit for outputting an image (Ozawa; abstract, column 2 lines 39-51), and wherein said first detection unit detects the operation of the button which is used for instructing to enter into a network (Ozawa; figure 2, figure 3, figure 5, figure 6, column 5 lines 1-10, column 6 lines 19-32 lines 49-65).

o) Consider **claim 36**, Ozawa et al. clearly show and disclose, a method of controlling a wireless communication device, comprising: a first detection step of detecting a button operation by a user, said button operation being for designating start of a processing of setting a communication parameter (figure 2, figure 3, figure 5, figure 6, column 6 lines 19-32 lines 49-65); a second detection step of detecting a destination device, which might be communicated with, at which a button operation being for designating start of the processing of setting the communication parameter has been made (figure 2, figure 3, figure, 5, figure 6, abstract, column 19-32 lines 66-77, column 7 lines 1-9 lines 39-46); and a terminating step of terminating the processing within a constant time period elapsed from when the button operation is detected in said first detection step (column 7 lines 10-14). However, Ozawa et al. does not specifically disclose a terminating step of terminating the processing of setting the communication parameter as a failure if in said second detection step a plurality of destination destinations are detected.

Fujinami shows and discloses a method for communication suitable for use in interconnecting a plurality of household communication apparatus, wherein Fujinami discloses a

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terminating step of terminating the processing of setting the communication parameter as a failure if in said second detection step a plurality of destination destinations are detected (paragraph [0089]).

One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Fujinami and Ozawa et al. since both concern configuring communications between two devices and as such, both are with in the same environment.

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate indicating a failure to set a communication parameter when a plurality of signals are detected from a plurality of devices, as taught by, Fujinami into the system of Ozawa et al. for the purpose of preventing multiple devices from being selected (Fujinami; paragraph [0089]), thereby preventing communication errors.

p) Consider **claim 37**, and **as applied to claim 36 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the method according to claim 36, further comprising a notify step of notifying a user of the failure when in said terminating step the processing of setting the communication parameter is terminated (Fujinami; paragraph [0089]).

q) Consider **claim 38**, and **as applied to claim 36 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the method according to claim 36, further comprising a transmitting step of transmitting a search signal for searching a destination device if in said first detection step the button operation is detected (Ozawa; figure 5, column 7 lines 10-14, column 6 lines 19-65), wherein, in said second detection step the destination device is detected on the basis of a response signal from the destination device responding to the search signal transmitted in said transmitting step (Ozawa; figure 6, column 7 lines 10-14, column 7 lines 15-38).

r) Consider **claim 39**, and **as applied to claim 36 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the method according to claim 36, wherein in said second

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detection step the destination device is detected on the basis of a signal transmitted from the destination device at which the button operation has been made (figure 5, figure 6, column 6 lines 19-32, column 7 lines 15-38).

s) Consider **claim 41**, and **as applied to claim 19 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, a computer-readable storage medium storing a computer program which causes a computer that reads and executes the program to function as the wireless communication device according to claim 19 (Ozawa; column 4 lines 55-60, column 5 lines 30-35).

t) Consider **claim 42**, and **as applied to claim 29 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, a computer-readable storage medium storing a computer program which causes a computer that reads and executes the program to function as the wireless communication device according to claim 29 (Ozawa; column 4 lines 55-60, column 5 lines 30-35).

11. **Claims 22, 28, 33, and 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ozawa et al. (US patent # 6,115,137)** in view of **Fujinami (US Patent Publication # US 2003/0123840 A1)**.

a) Consider **claim 22**, and **as applied to claim 19 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 19. However, Ozawa et al. does not specifically disclose said terminating unit terminates the processing of setting the communication parameter as a failure if said detection unit detects no signal transmitted from the another wireless communication-device at which the instruction has been made within the constant time period elapsed from when said determination unit determines the instruction is made.

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Nonetheless, the Examiner takes Official Notice of the fact that it is notoriously well known in the art to terminate the processing of setting the communication parameter as a failure if said detection unit detects no signal transmitted from the another wireless communication-device within the constant time period elapsed from when said determination unit determines the instruction is made.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to indicate the communication establishment process as a failure if no candidate device was detected upon establishing a wireless connection channel because there would be no need to establish a connection if there was not candidate device detected, as known in the art, in the method taught by Ozawa et al. for the purpose of preventing a communication device for endlessly seeking another device to connect with when one is not present.

b) Consider **claim 28**, and **as applied to claim 25 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the method according to claim 25. However, Ozawa et al. as modified by Fujinami does not specifically disclose processing of setting the communication parameter is terminated in said terminating step as a failure if, in said detection step; no signal transmitted from the another wireless communication device at which the instruction has been made is detected within the constant time period elapsed from when it is determined in said determination step that the instruction is made.

Nonetheless, the Examiner takes Official Notice of the fact that it is notoriously well known in the art to terminate the processing of setting the communication parameter in said terminating step as a failure if, in said detection step; no signal transmitted from the another wireless communication device at which the instruction has been made is detected within the constant time period elapsed from when it is determined in said determination step that the instruction is made.

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to indicate the communication establishment process as a failure if no candidate device was detected upon establishing a wireless connection channel because there would be no need to establish a connection if there was not candidate device detected, as known in the art, in the method taught by Ozawa et al. for the purpose of preventing a communication device for endlessly seeking another device to connect with when one is not present.

c) Consider **claim 33**, and **as applied to claim 29 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the wireless communication device according to claim 29, wherein the first detection unit detects the button operation (Ozawa; column 5 lines 1-10). However, Ozawa et al. as modified by Fujinami does not specifically disclose said terminating unit terminates the processing of setting the communication parameter as a failure if said second detection unit detects no destination device within the constant time period elapsed from when said first detection unit detects the button operation.

Nonetheless, the Examiner takes Official Notice of the fact that it is notoriously well known in the art to terminate the processing of setting the communication parameter as a failure if said second detection unit detects no destination device within the constant time period elapsed from when said first detection unit detects the button operation.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to indicate the communication establishment process as a failure if no candidate device was detected upon establishing a wireless connection channel because there would be no need to establish a connection if there was not candidate device detected, as known in the art, in the method taught by Ozawa et al. for the purpose of preventing a communication device for endlessly seeking another device to connect with when one is not present.

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d) Consider **claim 40**, and **as applied to claim 36 above**, Ozawa et al. as modified by Fujinami clearly show and disclose, the method according to claim 36, wherein detection step detects the button operation (Ozawa; column 5 lines 1-10). However, Ozawa et al. as modified by Fujinami does not specifically disclose said terminating step the processing of setting the communication parameter is terminated as a failure if in said second detection step no destination device is detected within the constant time period elapsed from when in said first detection step the button operation is detected.

Nonetheless, the Examiner takes Official Notice of the fact that it is notoriously well known in the art to terminate the processing of setting the communication parameter is terminated as a failure if in said second detection step no destination device is detected within the constant time period elapsed from when in said first detection step the button operation is detected.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to indicate the communication establishment process as a failure if no candidate device was detected upon establishing a wireless connection channel because there would be no need to establish a connection if there was not candidate device detected, as known in the art, in the method taught by Ozawa et al. for the purpose of preventing a communication device for endlessly seeking another device to connect with when one is not present.

### ***Response to Arguments***

12. Applicant's arguments with respect to **claims 19, 25, 29, and 36** have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 2002/0105678 A1
- US 2003/0081251 A1
- US 2003/0081237 A1
- US 2004/0095469 A1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL C. MURRAY whose telephone number is 571-270-1773. The examiner can normally be reached on Monday - Friday 0800-1700 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571)-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/DCM/

Examiner, Art Unit 2443

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2443